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COGARD FOR IPSLO ACTIVITIES EUROPE ADAM SHAW

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SUBJECT: LIBERIA: A NEW, ASSERTIVE BUREAU OF MARITIME AFFAIRS

REF: A) 07 MONROVIA 1293, B) 08 MONROVIA 751

¶1. (SBU) Summary: Recently appointed Liberian Bureau of Maritime Affairs (BMA) Commissioner Binyah Kesselly is seeking to assert tighter control over the country's outsourced shipping registry and has embarked on an ambitious program to transform Liberia into a "maritime nation" by expanding BMA authority beyond the ship registry into other maritime services. Kesselly told the Ambassador January 9 that negotiations with the current registry agent, Virginia-based LISCOR, LLC, would restart this month, but he also hinted that the GOL may have other alternatives to renewing with LISCOR if an agreement proves elusive or recent corruption allegations prove too serious to overcome. Kesselly outlined his priorities for the BMA, including leadership of Liberia's efforts to meet International Ship and Port Facility Security (ISPS) Code requirements at the Port of Monrovia, the creation of a Regional Coordinating Center for Maritime Search and Rescue, the re-establishment of a Liberian Maritime Training Institute (LMTI), coordination with the Ministry of Defense for the formation of a Liberian Coast Guard, and ratification of a backlog of International Maritime Organization (IMO) Conventions. End Summary.

A NEW DAY FOR BMA

¶2. (U) The Liberian Bureau of Maritime Affairs (BMA) is an autonomous agency within the Executive Branch charged with enforcing maritime law and other international conventions and administering the world's second-largest international ship registry which generates significant revenues for government. Apart from handling some national elements of the maritime regime - such as small craft registry and local regulations - the BMA has historically been primarily a political organization that represents the GOL in the international maritime sector, primarily the International Maritime Organization (IMO).

¶3. (SBU) Commissioner Kesselly was appointed in April 2008 and has embarked on an ambitious program to transform the ship registry into a "Best in Class" service and transform Liberia into a "maritime nation" by expanding BMA authority beyond the ship registry and into ecotourism, fisheries, marine services, merchant marine training, and even shipbuilding. Kesselly told the Ambassador January 9 that his initial focus is on increasing revenues from the registry, engaging private management for the renovation and administration of the Liberia Maritime Training Institute (LMTI) and catching up on the ratification of IMO conventions (see paragraph 17 for a list of conventions). As an illustration of the BMA's new assertiveness,

Liberia also co-sponsored UN Resolution 1851 on piracy last December and is drafting domestic laws that would allow for the prosecution of pirates according to Liberian law.

SHIP REGISTRY MANAGEMENT UNCERTAIN

¶4. (SBU) Liberia's ship registry, with over 2,978 Liberian-flagged vessels as of December 2008, is the second-largest in the world. In 1999, the GOL appointed the Liberia International Ship and Corporate Registry, LLC (LISCR) to manage the registry, including the collection of taxes, fees, charges and other amounts due to the GOL. LISCR is a purpose-made limited liability company registered in Delaware and based in Virginia. The legal basis for LISCR's appointment is an Act of the Liberian Legislature, an unusual measure intended to provide security to the LISCR investors who are, as per the statute, exclusively U.S. nationals. The Act expires December 31, 2009. (Note: Discussions of the ship registry negotiations are business-proprietary and are for USG use only. End note.)

¶5. (SBU) After LISCR's appointment, the BMA largely lost touch with the management and affairs of the ship registry. Moreover, weak professional capacity at the BMA and poor overall governance during the initial years of the appointment encouraged LISCR to take increasing authority for other BMA responsibilities in order to reduce the risks to the registry. By 2006, LISCR, LLC played a primary role in dealing with ship-owners worldwide and, apart from involvement of an accredited diplomat to the IMO in London, was seen as the face of Liberia in the international maritime community.

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Commissioner Kesselly has already moved to re-exert direct BMA control over non-registry related maritime matters and to more tightly control registry oversight.

¶6. (SBU) While the GOL ultimately would like to manage the registry directly in order to cut out the agent, the President reportedly decided in 2008 to renew LISCR's contract in order to avoid any potential defections by ship owners. Negotiations were set to begin last July but were sidelined over a corruption scandal involving LISCR CEO Yoram Cohen and members of the President's internal circle (ref. B). Kesselly told the Ambassador June 9 that negotiations with LISCR would restart this month, but he has also hinted that the GOL may have other alternatives to renewing with LISCR if an agreement cannot be reached. Kesselly added that the new agreement would be a management contract rather than a law.

¶7. (U) (Note: The GOL-commissioned report of the corruption scandal recommended January 12 that the GOL not reappoint LISCR as Agent for the registry, saying, "the Government of Liberia's resolve to renew the LISCR contract though understandable, seems not to have been the best procedure to adopt in light of scandals involving certain LISCR executives including the allegations of gunrunning in Liberia and other parts and the possible concealment of revenues that should have accrued to Liberia from the maritime program." End note.)

¶8. (U) The BMA's operating budget of approximately \$900,000 is funded directly from registry revenues, and the salaries and benefits of all the BMA personnel, including those working outside Liberia, are not constrained by Civil Service regulations (and are not subject to scrutiny in the same way as other GOL expenditures and decisions made in the context of GOL finances as a whole). Gross revenues to LISCR were \$36 million in 2004 (the last year financial statements were audited), from which management and agent fees (\$11 million), administrative costs (\$10 million) and IMO dues/fees (\$3 million) were extracted to leave a roughly \$13 million contribution to the GOL budget. GOL revenues fell to \$10.8 million in (calendar year) 2006, but have risen back to \$13.1 million in 2007 and \$14.6 million in 2008, according to Kesselly. In 2007, LISCR revenues account for approximately 6% of the total GOL budget.

¶9. (U) In addition to the shipping registry, LISCR also manages a Liberia offshore Corporate Registry for non-resident corporations

and other non-resident entities/associations. While the principal use of this service is for ship owners to create dummy corporations in order to flag the vessels, other entities, such as international investment companies and traders, incorporate in Liberia to take advantage of the beneficial tax environment in effect for non-resident corporations. Responsibility for the Corporate Registry is vested in the portfolio of the Minister of Foreign Affairs.

BMA TAKES LEAD ON PORT SECURITY

¶10. (SBU) The U.S. Coast Guard International Port Security Team conducted a review March 2007 of port security measures relating to the International Ship and Port Facility Security (ISPS) Code in place in Liberia and found that the Port of Monrovia did not meet ISPS Code requirements. (Note: Firestone Liberia maintains a self-contained ship-to-port interface at the Port of Monrovia that is ISPS compliant and the USCG has granted Firestone a waiver for its vessels traveling between Monrovia and the United States. End note). Follow-up visits in March and August 2008 found only minimal progress on implementing the ISPS Code, with notable problems in the areas of access control, monitoring the facility, anchorage and berthing areas, monitoring restricted areas, supervising the handling of cargo and ship's stores, and, communication of security information. The USCG also confirmed the GOL still had not established a Designated Authority (DA) for ISPS compliance.

¶11. (SBU) Since August 2008, the GOL has established a multi-agency Port Security Technical Team, led by the BMA, to pursue ISPS compliance. Kesselly told the Ambassador January 9 that the President had issued an appointment letter (though not an Executive Order) naming the BMA as the Designated Authority for ISPS. He also said the BMA has drafted an initial Port Facility Security Assessment (PFSA) and developed a Port Facility Security Plan

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(PFSP), though implementation remains uncertain and unproven ahead of the next formal USCG visit in March 2009 to assess compliance with the ISPS Code.

¶12. (U) The BMA, through LISCR, also monitors ISPS compliance aboard Liberian-flagged vessels, requiring all ships subject to the ISPS Code to complete Ship Security Assessments (SSAs) and Ship Security Plan (SSPs) and submit them to an approved Recognized Security Organization (RSO) for review and approval. The BMA/LISCR also conducts flag-state inspections aboard all Liberian-flagged ships to verify ISPS Code compliance.

MARITIME TRAINING

¶13. (U) The BMA has initiated plans to re-establish the Liberian Maritime Training Institute (LMTI) near Marshall, just south of Roberts International Airport. The BMA hopes to develop a national maritime workforce with the goal of providing qualified and competent Liberian seafarers to the international shipping industry. LMTI's facilities and infrastructure were destroyed during the war and there are currently few qualified instructors. The BMA has engaged the IMO as well as the domestic seafarers union(s) as potential cooperative partners for the LMTI, and is considering a contract to outsource the rehabilitation and management of the institute.

MARITIME SEARCH AND RESCUE

¶14. (U) The IMO selected Liberia in 2007 to serve as the Regional Coordinating Center for Maritime Search and Rescue in West Africa Region, comprised of Ghana, Cote d'Ivoire, Guinea and Sierra Leone. The Liberian Legislature passed two bills for the creation of a Maritime Search and Rescue Center and for the ratification of the International Search and Rescue Convention of 1979. In 2008, the

BMA signed a Memorandum of Understanding (MOU) with Firestone for maritime capacity building and with the Ministry of Defense for the establishment of a Search and Rescue Communications Center (SRCC). Construction of the SRCC started in August 2008 and is expected to be completed in April 2009. The facility, which is located on the north side of the Port of Monrovia, will also house the Liberian Coast Guard.

MARITIME SURVEILLANCE AND CONTROL

¶15. (U) According to a recent USCG survey and a 2005-2006 regional study, it is estimated that 250-300 illegal fishing boats regularly operate in Liberian waters. Liberia's coastline measures approximately 360 miles (579 kms) and the country claims both a territorial sea and an exclusive economic zone of 200 nautical miles (370 kms). Exercising control over the country's entire territorial sea and exclusive economic zone, an area encompassing 1,900 sq miles, is a task beyond the near-term economic resources of the country.

¶16. (SBU) Kesselly explained that the BMA has begun to train a 31-member Maritime Security Team that will eventually become a land-based "Maritime Police" force to enforce BMA regulations. Meanwhile, the USG (through the USCG and the Office of Security Cooperation) is assisting the GOL with the establishment of a Liberian Coast Guard. To date 44 Armed Forces of Liberia personnel have been selected to start up the Coast Guard; training will start in early 2009. The OSC also helped revamp Liberia's Automatic Identification System (now called Maritime Safety and Security Information System - MSSIS) for monitoring ship traffic in Liberia's EEZ in 2008. The system is controlled out of the Ministry of Defense, but Kesselly is seeking to base the system at BMA.

¶17. (SBU) Comment: Despite Kesselly's hope that the government can take over the ship registry directly, this is likely to be a long way off. Since LISCR has a firm grip and ultimate control over the current direction of the registry, and possession of the registry records, it would be very difficult to wrest control from LISCR while at the same time continuing to operate the registry

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satisfactorily. Further, despite the allegations of impropriety by LISCR to maintain its contract, the firm has enhanced the reputation of the Liberian registry and increased the number of flagged ships. As a result, the ship registry has become an important part of Liberia's revenues; revenues that now flow directly and transparently into the government budget. In contrast, one of Kesselly's predecessors, Benoni Urey, was so effective in siphoning off funds for Charles Taylor and himself that he now is on the UN Travel Ban and Assets Freeze lists. The GOL should ensure that transparency and accountability are reinforced as part of any new agreement in order to prevent future temptations for abuse. End comment.

GOL RATIFIES SEVERAL IMO CONVENTIONS

¶18. (U) Following is a list of Maritime Conventions ratified by the Liberian Legislature in 2008:

-- The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001

-- The International Convention on Control of Harmful Anti-Fouling System on Ships (AFS), 2001

-- International Convention for the Control and Management of Ships Ballast Water and Sediments, 2004

-- Convention on Limitation of Liability for Maritime Claims (LLMC), 1976 as amended by the 1996 protocol

-- The Oil Labor Convention, 2006

-- International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS), 1996

-- Protocol on Preparedness Response and Cooperation to Pollution incidents by Hazardous and Noxious Substances (OPRC/HNC), 2000

-- International Convention on Salvage, 1989

-- 1994 Amendments to the Convention on International Maritime Satellite Organization, 1976

-- Torremolinos Convention for the Safety of Fishing Vessels, 1997 and 1993 protocol

-- United Nations Convention on the Law of the Sea (UNCLOS), 1982

BIOGRAPHIC INFORMATION

¶19. (U) BMA Commissioner Binyah C. Kesselly is the son of Edward Binyah Kesselly, a former Minister of Defense after whom Liberia's primary military base is named. Prior to joining the BMA, Kesselly was a Director of Enterprise Improvement at McNeil Consumer Healthcare in New Brunswick, New Jersey. He has held various other strategic management positions in pharmaceutical and biotechnology industries as well as management consulting firms.

THOMAS-GREENFIELD